

Remarks/Arguments

Claims 1-4 and 11-14 are pending. Claims 5-10 and 15-20 have been withdrawn in response to the restriction requirement. Applicants maintain that the restriction requirement was improper for the reasons given in their response filed on April 23, 2007. Applicants reserve their right to appeal this issue. All of the pending claims have been rejected.

Claims 1-4, 11-12 and 14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Mathias U.S. Patent No. 6,387,086 (hereinafter the "Mathias '086 Patent") in view of Ishida U.S. Patent No. 5,125,920 (hereinafter "Ishida '920 Patent"). Claim 13 has been rejected over the combination of the Mathias '086 Patent and Ishida '920 Patent and further in view of Patel U.S. Patent No. 5,167,657 (hereinafter the "Patel '657 Patent"). Applicants respectfully traverse these rejections of the pending claims.

Prior to addressing the rejections themselves, Applicants confirm that the subject matter of the various claims is commonly owned. All of the inventors of record assigned their interests in the present application to MacoPharma in the instrument recorded at Reel/Frame: 015266/0591.

Turning to the rejections, as to claims 1, 4, 11, 12 and 14, the Office Action states that each and every limitation is disclosed in the Mathias '086 Patent, except for the identification tags. The Office Action cites to the Ishida '920 Patent for this allegedly missing limitation stating that "[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Mathias with identification tags for the benefits Ishida discloses." Office Action at 3-4. However, the Office Action fails set forth a *prima facie* case of obviousness. In particular, the Ishida '920 Patent fails to teach or suggest the limitation that the tags "allow the establishment, after their dissociation, that both the collection bag and receptacle originated from the same bag system." While the Ishida '920 Patent discloses a labeling system for labeling a blood collection container 2 and blood collection tube 15, the bag system disclosed in the Ishida '920 Patent relies on the phlebotomist to separate the label for the blood collection tube 15 from the label affixed to the blood collection container 2 and to affix it to the blood collection tube 15 associated with the blood collection tube 15. Ishida '920 Patent, Col. 5, lines 16-25. There is no guarantee that the correct blood collection tube 15 and its

associated blood collection container 2 will be properly labeled. Furthermore, the Ishida '920 Patent teaches away from the embodiment set forth in independent claim 1 of the present application where the collection bag and sampling receptacle are pre-labeled. In distinguishing the prior art, the Ishida '920 Patent states “[b]esides, in the case that labels are previously stuck on the blood collecting tubes prior to blood collection works, there is a possibility that blood is collected into a blood collecting tube from a wrong blood bag, that is, a blood bag provided with the label having a different serial number from that of the label on the blood collecting tube into which blood is collected.” Ishida '920 Patent, Col. 1, lines 36-42.

Moreover, the Office Action fails to point out where in the cited references the prior art teaches or suggests “a package,” as required in independent claim 1. The Office Action further fails to point out where in the cited references the prior art teaches or suggests the limitation that the bag system be “confined in a sterile fashion in the package,” as also required by independent claim 1. Accordingly, the Office Action fails to establish a *prima facie* case that independent claim 1 is obviousness. Therefore, independent claim 1 is believed patentable over the prior art of record. Since claims 3-4, 11-2 and 14 depend, either directly or through an intermediate claim, on independent claim 1, they are also believed to be patentable over the combination of the Mathias '086 Patent and the Ishida '920 Patent for the same reasons given above.

Finally, the Patel '657 Patent fails to fill the gaps in the Mathias '086 Patent and the Ishida '920 Patent and therefore fails to render claim 13, which also depends from independent claim 1, obvious. In particular, the Patel '657 Patent fails to disclose any labeling of a collection bag or sampling receptacle, nor does it disclose a package for a bag system, nor does it disclose the limitation of confining a bag system in a sterile fashion in a package. Accordingly, dependent claim 13 is believed patentable over all of the prior art of record for at least these reasons. Therefore, Applicants respectfully request withdrawal of the pending rejections, and that all of the pending claims being allowed.

SUMMARY

In light of the above remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments, or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record.

Applicants believe that there are no fees due in association with this filing of this Response. However, should the Commissioner deem that any additional fees are due, including any fees for extensions of time, the Commissioner is authorized to debit Baker Botts L.L.P. Deposit Account No. 02-0383, Order Number 069208.0117, for any underpayment of fees that may be due in association with this filing.

Respectfully submitted,

BAKER BOTTS L.L.P. (023640)

By: 

Paul R. Morico
Reg. No. 35,960
BAKER BOTTS L.L.P.
910 Louisiana
Houston, Texas 77002-4995
Telephone: 713.229.1732
Facsimile: 713.229.7732
email: paul.morico@bakerbotts.com

Date: October 9, 2007